

Who Owns Your Identity?

A Deep Dive into Personality Rights in India

In today's digital age, our faces, voices, names, mannerisms, and even catchphrases have become valuable assets. But who really owns these attributes — you, or the public?

This question has come alive again in India with a surge of lawsuits by actors and public figures seeking to protect their identities from misuse, especially in the era of AI-generated content and deepfakes. Let's explore the evolving law of personality rights (also called the "right of publicity") in India.



What are Personality Rights?

- ✓ **Core idea:** The right of a person — especially celebrities — to control commercial exploitation of their name, likeness, voice, signature, or mannerisms.
- ✓ **Alternate terms:** “Right of publicity” or “persona rights.”
- ✓ **Overlap:** Privacy, defamation, and intellectual property rights.
- ✓ **Indian position:** No standalone law exists. Courts derive protection from constitutional principles, tort law, and IP statutes



Legal Foundations & Statutory Provisions

While personality rights are not directly legislated, various constitutional and statutory tools support them:

Personality rights in India are not governed by a single statute, but courts derive protection from multiple legal sources:

◆◆ Constitutional Rights

- ✓ **Article 21 – Right to Life & Personal Liberty:** Courts have interpreted the right to control one’s identity and dignity as part of personal liberty.
- ✓ **Article 19(1)(a) – Freedom of Speech & Expression:** Personality rights must be balanced against free speech, especially in cases of parody, satire, and criticism.

◆◆ Copyright Act, 1957

- ✓ **Sections 38A & 38B:** Grant performers’ rights and moral rights, protecting against misuse or distortion of performances.

◆◆ Trade Marks Act, 1999

- ✓ **Section 14:** Prohibits dishonest use of names or registered marks; celebrities can trademark names, signatures, or catchphrases to prevent unauthorized exploitation.

◆◆ Tort & Common Law Principles

- ✓ Courts recognize passing off, misrepresentation, and unjust enrichment as grounds to protect personality rights.

Because of this mosaic protection, the Indian judiciary has progressively filled gaps via case law — though inconsistency remains.

Landmark Cases

Gautam Gambhir v. D.A.P. & Co. MANU/DE/5440/2017 Gambhir objected to a restaurant using “By Gautam Gambhir” in its branding without his consent. The court recognized a celebrity’s right to control commercial use of their name.
Shivaji Rao Gaikwad (Rajinikanth) v. Varsha Productions: MANU/TN/0189/2015 The High Court held that a celebrity’s identity can be protected without proving deception or confusion, once identifiability is established.






Recent celebrity suits in 2025

Aishwarya Rai Bachchan Aishwaryaworld.com :MANU/DEOR/94281/2025 Aishwarya Rai Bachchan has approached Delhi High Court to restrain AI-generated content using their likeness, and to order takedown of infringing material.
Sanjay vs. Karan Johar and Ors. : MANU/MH/2860/2025 Court upheld his personality rights, restraining unauthorized use of his name and persona in promotional material.

Challenges, Tensions & A Way Forward



While the momentum is promising, the doctrine is still evolving. Key challenges include:

 Lack of doctrinal clarity: Courts often treat “identifiability” alone as infringement, without examining confusion, intent, or harm.	 Balancing free speech: Parody, satire, and criticism must remain protected. Over-expansion of rights risks chilling free expression.	 Digital enforcement issues: Deepfakes, AI voice cloning, and viral content raise new questions: how fast must platforms act? What about AI training datasets?
 No dedicated statute: Current patchwork is insufficient for modern threats. A clear legal framework is needed.	 Scope of protection: Should gestures, mannerisms, or catchphrases qualify as “identity”? The line remains blurred.	

The Road Ahead



As India grapples with deepfakes, influencer culture, and AI content generation, personality rights can no longer remain in the shadows. Courts are leading the charge, but a dedicated statutory framework is urgently needed to balance identity protection with freedom of speech and innovation.



The question remains:

Who owns your identity — you, the public, or the platforms that profit from it?